

REMARKS

Applicants and the undersigned are most grateful for the time and effort accorded the instant application by the Examiner. The Office is respectfully requested to reconsider the rejections present in the outstanding Office Action in light of the foregoing amendments and the following remarks.

This submission is made in response to the Non-Final Office Action dated March 15, 2008. Claims 1, 3, 4, 6-15, 17, 18, and 20-28 are currently pending for examination, of which claims 1, 15 and 28 are independent; the remaining claims are dependent claims. Claims 1, 3, 4, 6-15, 17, 18, and 20-28 stand rejected. In response, Applicant has filed herewith this Amendment, amending independent claims 1, 15, and 28 and dependent claims 10, 11, 24 and 25. The Examiner is respectfully requested to reconsider the rejections presented in the outstanding Office Action in light of the foregoing amendments and following remarks.

On Wednesday June 11, 2008, Applicants' representatives conducted a telephone interview with the Examiners Joseph Ustaris and Christopher Kelley during which the pending claims and art of record were discussed. It was agreed that the amendments to the independent claims presented herein overcame the art of record. The Examiners, however, would like to conduct a further search. It was also agreed that the Examiners would telephone the undersigned prior to issuing a further action if the claims as presented herein were not immediately allowable.

Examiner agreed that the proposed claim amendments required a new search. While no specific agreement was reached as to the outstanding issues in the Office

Action, it was agreed that Applicants would submit a response for the Examiner's consideration.

Applicants are not conceding in this application the claims amended herein are not patentable over the art cited by the Examiner, as the present claim amendments are only for facilitating expeditious prosecution. Applicants respectfully reserve the right to pursue these and other claims in one or more continuations and/or divisional patent applications. Applicants specifically state no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

Rejection of claims under 35 U.S.C. § 103(a):

Claims 1, 3, 4, 6-12, 17, 18, 20-25 and 28 stand rejected as being unpatentable over U.S. Patent 5,838,314 to Neel et al. (hereinafter "Neel") in view of U.S. Patent 5,619,247 to Russo (hereinafter "Russo") and further in view of U.S. Patent 6,546,555 to Hjelsvold et al. (hereinafter "Hjelsvold") under 35 U.S.C. § 103(a). Claims 13, 14, 26, and 27 stand rejected as being unpatentable over Neel in view of Russo, in view of Hjelsvold and further in view of the U.S. published application 2003/0133692 to Hunter (hereinafter "Hunter") under 35 U.S.C. § 103(a). Applicants respectfully request reconsideration and withdrawal of these rejections.

The previously submitted remarks regarding the Neel, Russo, and Hunter references remain applicable and are therefore incorporated herein for the sake of brevity. Applicants respectfully submit that neither Neel nor Russo nor Hjelsvold teaches the subject matter of claims 1, 15 and 28, as amended. Moreover the newly amended claims

make it clear that the references do not teach all of the claim limitations. Therefore, at least for this reason, Neel, either alone or in any combination with the other art of record, does not teach all of the limitations of the independent claims. Applicants respectfully request reconsideration and withdrawal of these rejections.

With regards to the independent claims, the Examiner states the following:

Hjelsvold discloses that the system adjusts the attributed credit value (e.g. price/value) of the received media content (e.g. video) based on at least one additional predetermined criterion external to the received media content (e.g. the time varying price function).

Office Action, p. 5. However Applicants respectfully submit that the present disclosure in various preferred embodiments present a system which is starkly different than that of the Hjelsvold reference. While Hjelsvold may appear at first blush to teach a similar system, Hjelsvold fails to teach or suggest the present disclosure as amended herein.

The Hjelsvold reference, as best understood, is directed to adjusting the price of content which the viewer wants to view referred to as (e.g., news) based on the time of day viewed for example. Whereas, the present disclosure aims to adjust the price of the content which the user would normally be opposed to viewing (e.g., advertisements) based on additional criterion. (e.g., advertisements may be worth more or less when viewed by certain customers based upon their demographic information—see *Specification*, page 7, lines 9-15).

In order to expedite prosecution, the independent claims have been amended to recite, *inter alia*,

a controller which... is adapted to be programmed with consumer demographic profile and preference information, wherein, based upon the demographic and preference information, a **modulated credit value** for credit-bearing content is

obtained

Claim 1 (emphasis added). The other independent claims 15 and 28 have been amended to include similar language. This amended claim language is intended to clearly indicate the at least one other criterion, other than viewing the advertising (e.g., time adjustments) takes into account user demographics and preferences to adjust the attributed value of the credit-bearing content. Such additional factors may be programmed (i.e., are “predetermined”) into the system and this does not mean simply that an employee (e.g., hotel employee) may waive a fee on a case-by-case basis (e.g., upon a user encountering difficulty using the system). See *Specification*, page 7, lines 9-15; *Neel*, Col. 14, lines 1-15; Col. 5, lines 64-67; *Russo*, Col. 5, lines 25-33.

It should also be apparent that the language “modulated” or the like is adequately supported by the whole of the specification, as it is inherent that the nature of the invention, according to at least one embodiment, is to “adjust” what the price/value of content based on a multitude of factors. Modulate is intended to have the same meaning as adjust in this respect, and modulating is a well known synonym for adjust, such that it may be used interchangeably. (www.dictionary.com; search word “modulate” returns “adjust” as synonym under thesaurus function; last visited June 11, 2008)).

For the foregoing reasons, Applicants respectfully submit that claims 1, 15, and 28 are allowable over Neel, Russo, Hjelsvold and Hunter, in any combination. Applicants respectfully request that the Examiner withdraw the rejection of claims 1, 15, and 28 as being unpatentable under 35 U.S.C. § 103(a).

Applicants also note that dependent claims 10 (and corresponding method claim 24) and 11 (and corresponding method claim 25) have been amended solely in an effort to facilitate expeditious prosecution. Claim 10 now provides:

The apparatus according to Claim 1, wherein the presentation medium is a television; and wherein the modulated credit value has a higher credit value when the credit bearing content is being presented to a consumer who is known to be in a demographic group that has a high probability of purchasing a product featured in said credit bearing content.

Further, Claim 11 now provides:

The apparatus according to Claim 10, wherein the received media content comprising a plurality of segments comprises a television commercial and at least a portion of a television show; and wherein said consumer demographic profile and preference information includes consumer buying habits.

These claim amendments find full support in the specification. (Specification, Page 10, Lines 3-5; and Page 9, Lines 2-4). These dependent claims are allowable over the art of record in their own right, in addition to their dependence from what are believed to be allowable independent claims.

With regards to the rejection of claims 3, 4, 6-8, 10-12, 17, 18, and 20-22, 24-25, these claims are dependent upon independent claims 1 and 15. Applicants respectfully submit that these claims are allowable for at least the same reasons as discussed above with regards to the independent claims. Applicants respectfully request that the Examiner withdraw the rejection of the claims as being unpatentable under § 103(a). Applicants would like to respectfully point out that the teachings of Hjelsvold are not sufficient to overcome the above discussed deficiencies in the teachings of Neel and Russo with respect to the subject matter of the independent claims, as amended.

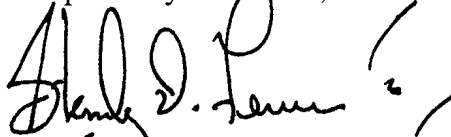
Request for Telephone Interview

As a reminder, it was agreed that the amendments to the independent claims presented herein overcame the art of record, but the Examiners would like to conduct a further search. Therefore, it is respectfully requested that the Examiners telephone the undersigned prior to issuing a further action if the claims as presented herein were not immediately allowable. Applicants respectfully submit that this is a particularly appropriate request given the prosecution history of this case, in which a third Request for Continued Examination has now been filed.

Conclusion:

In view of the foregoing, it is respectfully submitted that independent claims 1, 15, and 28 fully distinguish over the applied art and are thus in condition for allowance. By virtue of dependence from claims 1 and 15, and in their own right, it is also submitted that claims 3, 4, 6-14, 17, 18, and 20-27 are also allowable at this juncture. Notice to the effect is hereby earnestly solicited.

Respectfully submitted,



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